

ORIGINAL

(S E R V E D)
(October 5, 1999)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 99- 18

STALLION CARGO, INC. - POSSIBLE VIOLATIONS OF
SECTIONS 10(a)(1) AND 10(b)(1) OF THE SHIPPING ACT OF 1984

ORDER OF INVESTIGATION AND HEARING

Stallion Cargo, Inc. ("Stallion") is a tariffed and bonded non-vessel-operating common carrier ("NVOCC") located at 8012 N.W. 29th Street in Miami, Florida. Prior to the enactment of the Ocean Shipping Reform Act of 1998, Stallion held itself out as an NVOCC pursuant to its tariff, FMC No. 010474-002, which was filed on August 16, 1996, in the Federal Maritime Commission's ("Commission") Automated Tariff Filing and Information System ("ATFI") and became effective September 15, 1996. Stallion continues to hold itself out as an NVOCC pursuant to a tariff currently published by Effective Tariff Management Corporation. Furthermore, through April 1999, Stallion maintained an NVOCC bond, No. 9148033, in the amount of \$50,000 with the American National Fire Insurance Company, located in Cincinnati, Ohio.¹

¹ As of May 1, 1999, and pursuant to the Commission's regulations at 46 CFR 5 15.21, Stallion has increased its bond to the required amount of \$75,000.

Stallion was incorporated in the state of Florida on April 29, 1991. Rafael Croes occupies the positions of President, Vice President, and Director. Jorge M. Palacios is the General Manager. Mr. Croes owns 100% of the capital stock in the company. According to information available to the Commission, Stallion regularly ships cargo in the trade from Port Everglades to the port of Oranjestad, Aruba, Netherlands West Indies.

Based on evidence available to the Commission, it appears that, from September 4, 1998 until October 30, 1998, Stallion engaged in a scheme of misdescribing commodities on shipments transported by King Ocean Service de Venezuela, S.A. ("King Ocean") and SeaFreight Line, Ltd. ("SeaFreight") in an effort to obtain lower rates than those that would otherwise be charged by the ocean common carriers pursuant to their tariff, FMC No. 006176-004.² On at least eight (8) occasions, Stallion consolidated its shipments such that each container consisted of several commodities. However, it appears that Stallion declared only one type of commodity to King Ocean and SeaFreight who subsequently rated the commodities in accordance with the inaccurate description. Stallion's house bills of lading, which describe the specific commodities being shipped, indicate that Stallion was fully cognizant that the shipments actually consisted of commodities different from those listed on King Ocean's and SeaFreight's bills of lading.

It further appears that, during the same time period, Stallion processed eighty-two (82) shipments for which it issued its own NVOCC bills of lading with respect to the commodities being

² During the period of time at issue, King Ocean and SeaFreight were participating carriers in the Aruba Bonaire Curacao Liner Association.

transported. It further appears that the rates assessed and collected by Stallion from its customers bear no relation to the rates set forth in Stallion's ATFI tariff on file with the Commission.³

Section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709(a)(1) (1998), prohibits any person from knowingly and willfully, directly or indirectly, by means of false billings, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, obtaining or attempting to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable. Section 10(b)(1), 46 U.S.C. app. 1709(b)(1) (1998),⁴ prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property than the rates and charges set forth in its tariff. Under section 13 of the 1984 Act, 46 U.S.C. app. 1712 (1998), a person is subject to a civil penalty of not more than \$27,500 for each violation knowingly and willfully committed, and not more than \$5,500 for other violations.' Section 13 further provides that a common carrier's tariff may be suspended for violations of section 10(b)(1) for a period not to exceed one year, while section 23 of the 1984 Act, 46 U.S.C. app. 1721 (1998), provides for a similar suspension in the case of violations of section 10(a)(1) of the 1984 Act. Finally, section 19(b) of the 1984 Act, 46 U.S.C.

³ Since the filing of its tariff on August 16, 1996, Stallion has maintained a tariff consisting solely of a Cargo, N.O.S. rate.

⁴ P.L. No. 105-258, the Ocean Shipping Reform Act of 1998 ("OSRA"), restated section 10(b)(1) as new section 10(b)(2), barring carriers from providing service other than in accordance with the rates contained in their published tariffs. This change took effect on May 1, 1999. During the time period covered by this Order, OSRA had not yet taken effect. Section 10(b)(1), in its pre-OSRA format, applies in determining whether violations have occurred.

⁵ These penalty amounts reflect an adjustment for inflation pursuant to the Commission's regulations at 46 CFR pt. 506.

app. 1718(b) (1998), provides that, in the event violations of the 1984 Act are found, the license of Stallion may be suspended or revoked.

NOW THEREFORE, IT IS ORDERED That pursuant to sections 10, 11, 13, 19, and 23 of the 1984 Act, 46 U.S.C. app. 1709, 1710, 1712, 1718, and 1721, an investigation is instituted to determine:

1) whether Stallion Cargo, Inc. violated section 10(a)(1) of the 1984 Act by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable through the means of misdescription of the commodities actually shipped;

2) whether Stallion Cargo, Inc. violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges shown in its NVOCC tariff;

3) whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, civil penalties should be assessed against Stallion Cargo, Inc. and, if so, the amount of the penalties to be assessed;

4) whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Stallion Cargo, Inc. should be suspended;

5) whether the Ocean Transportation Intermediary license of Stallion Cargo, Inc. should be suspended or revoked pursuant to section 19 of the 1984 Act; and

6) whether, in the event violations are found, an appropriate cease and desist order should be issued.

IT IS FURTHER ORDERED That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of

Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. This hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that as an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED That Stallion Cargo, Inc. is designated Respondent in this proceeding;

IT IS FURTHER ORDERED That the Commission's Bureau of Enforcement is designated a party to this proceeding;

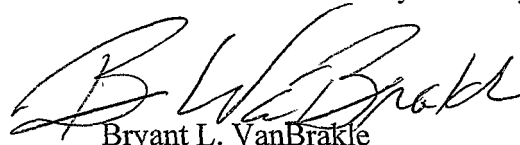
IT IS FURTHER ORDERED That notice of this Order be published in the Federal Register, and a copy served on parties of record;

IT IS FURTHER ORDERED That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

IT IS FURTHER ORDERED That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on the parties of record;

IT IS FURTHER ORDERED That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on the parties of record; and

IT IS FURTHER ORDERED That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issue by October 5, 2000, and the final decision of the Commission shall be issued by February 2, 2001.


Bryant L. VanBrakle
Secretary

99-18

Dated: October 8, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary

[FR Doc. 9946796 Filed 10-13-99; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION**Ocean Transportation Intermediary License Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder-Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

DSM Freight, Inc., 280 SW 99 Terrace, Pembroke Pines, FL 33025; Officers: Dawn Pierce, President (Qualifying Individual); Leslie Alexander, Vice President (Qualifying Individual)

Lukini Shipping Inc., Cargo Building 80, Room 203, JFK International Airport, Jamaica, NY 11430; Officers: Miriam Y. Chen, Director (Qualifying Individual)

Marine Logistics Management, Inc., 398 Mallard Lane, Weston, FL 33327; Officers: Clifford R. Johnson, Treasurer (Qualifying Individual), John L. Sharko, President

Maxx Express, Inc., 917 S. San Julian Street, Los Angeles, CA 90015; Officer: Sang Ho Kim, President (Qualifying Individual)

Ordis Sea Cargo, Inc., 2204 Landmeier Road, Elk Grove Village, IL 60067; Officers: Rolando T. Nino, Vice President of Operations (Qualifying Individual), Isidoreo T. Santos, Jr., President

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

B International Inc., 780 Apex Road, Sarasota, FL 34240; Officers: Karen L. Ambrosia, President (Qualifying Individual); Richard Glanz, Vice President

Ocean Freight Forwarders-Ocean Transportation Intermediary Applicants
S K Logistics, Inc., 1040 Sandy Ridge Road, Doylestown, PA 18901; Officer: Paul J. McGrath, President (Qualifying Individual)

Dated: October 8, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-26798 Filed 10-13-99; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION**[Docket No. 99-18]****Stallion Cargo, Inc.-Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984; Notice of Investigation**

Notice is given that the Commission, on October 5, 1999, served an Order of Investigation and Hearing on Stallion Cargo, Inc. ("Stallion"), a tariffed and bonded non-vessel operating, common carrier ("NVOCC"). The Order institutes a formal investigation to determine whether Stallion violated sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984, 46 U.S.C. App. Sections. 1709(a)(1) and (b)(1), by knowingly and willfully obtaining transportation at less than the rates and charges otherwise applicable through misdescription of the commodities actually shipped, and charging, demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges shown in its IWOC tariff. Should violations be found, the proceeding will determine whether to impose civil penalties, suspend Stallion's tariff, suspend or revoke its license, and issue a cease and desist order. The full text of the Order may be viewed on the Commission's home page at www.fmc.gov, or at the Office of the Secretary, Room- 1046, 806 N. Capitol Street, NW, Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99-26715 Filed 10-13-99; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank-Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and §

225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 27, 1999.

A. Federal Reserve Bank off Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Jeffrey Martin Dinklage, Wisner, Nebraska; to acquire additional voting shares of D & H Investments Corporation, Cherokee, Iowa, and thereby indirectly acquire Valley Bank & Trust, Cherokee, Iowa.

Board of Governors of the Federal Reserve System, October 7, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-26746 Filed 10-13-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank, & bank holding company and all of de banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below; as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of de nonbanking company complies with the standards in section 4 of the BHG Act.

ORIGINAL

BEFORE THE
FEDERAL MARITIME COMMISSION

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VICE PRESIDENT SECRETARY
FEDERAL MARITIME COMMISSION

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STALLION CARGO INC. - POSSIBLE
VIOLATIONS OF SECTIONS 10(a)(1) AND
10(b)(1) OF THE SHIPPING ACT OF 1984
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DOCKET NO.
99-18

**MOTION OF THE BUREAU OF ENFORCEMENT TO
EXTEND THE PROCEDURAL SCHEDULE**

Pursuant to Rule 157 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.157, and the procedural schedule established by the Administrative Law Judge by Order dated July 11, 2000, the Bureau of Enforcement ("BOE") hereby requests that the evidentiary record remain open and that the procedural schedule be extended by one week until August 25, 2000 for BOE to reply to Respondent's Motion to Admit its direct case into the record. Respondent's counsel has given BOE permission to state on his behalf that he does not oppose BOE's request to extend the procedural schedule until August 25, 2000.

Respectfully submitted,

Julie L. Berestov

Julie L. Berestov
Trial Attorney
Bureau of Enforcement

August 17, 2000